

Mar 04, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WILLIAM M. JULIAN,

Petitioner,

v.

JEFFERY A. UTTECHT,

Respondent.

2:19-cv-202-SAB

**ORDER DENYING MOTION
FOR RECONSIDERATION**

Before the Court, without oral argument, is Petitioner's *pro se* Motion and Affidavit for Reconsideration, ECF No. 13. He subsequently filed a Notice of Appeal, ECF No. 14. Having reviewed the pleadings and the file in this matter, the Court is fully informed and denies the motion.

By Order filed October 28, 2019, the Court dismissed Mr. Julian's Petition for Writ of Habeas Corpus challenging a 1998 guilty plea as time barred under 28 U.S.C. § 2244(d). Petitioner argues that a "3.5 hearing" conducted on July 9, 2014, at which his 1998 custodial confession was deemed coerced, ECF No. 1 at 6, 28, "falls outside 28 U.S.C.S. § 2244." ECF No. 13 at 1.

A motion for reconsideration may be reviewed under either Federal Rule of Civil Procedure 59(e) (motion to alter or amend a judgment) or Rule 60(b) (relief from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir.

1 1993). “A district court may properly reconsider its decision if it ‘(1) is presented
2 with newly discovered evidence, (2) committed clear error or the initial decision
3 was manifestly unjust, or (3) if there is an intervening change in controlling law.’”
4 *Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (quoting *School*
5 *Dist. No. 1J*, 5 F.3d at 1263). “There may also be other, highly unusual,
6 circumstances warranting reconsideration.” *School Dist. No. 1J*, 5 F.3d at 1263.
7 These standards apply in habeas corpus proceedings under 28 U.S.C. § 2254 to the
8 extent they are not inconsistent with applicable federal statutory provisions and
9 rules. *See Gonzalez v. Crosby*, 545 U.S. 524, 530 (2005).

10 In this instance, Petitioner has not presented newly discovered evidence. *See*
11 *School Dist. No. 1J*, 5 F.3d at 1263. He has not shown that the Court committed
12 clear error or that the dismissal Order was manifestly unjust. Furthermore, there
13 has been no intervening change in controlling law and there are no other
14 circumstances warranting reconsideration. *Id.*

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1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Petitioner's Motion and Affidavit for Reconsideration, **ECF No. 13**, is
3 **DENIED.**

4 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
5 and provide a copy to *pro se* Petitioner. The file shall remain closed. The Court
6 certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could
7 not be taken in good faith, and there is no basis upon which to issue a certificate of
8 appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

9 **DATED** this 4th day of March 2020.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

15 Stanley A. Bastian
16 United States District Judge
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